

109TH CONGRESS  
1ST SESSION

# H. R. 2219

To ensure that, during time of war and in another country, the United States does not detain a United States citizen unless the United States first ensures that the citizen's fundamental rights to information, counsel, and communication are protected.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2005

Mr. GERLACH introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To ensure that, during time of war and in another country, the United States does not detain a United States citizen unless the United States first ensures that the citizen's fundamental rights to information, counsel, and communication are protected.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fair Treatment of  
5       Americans by Americans Act”.

1 **SEC. 2. DETENTION OF UNITED STATES CITIZEN IN AN-**  
2 **OTHER COUNTRY DURING TIME OF WAR.**

3 (a) IN GENERAL.—During time of war and in an-  
4 other country with respect to which no protective treaty  
5 or international agreement is in effect, an agent of the  
6 United States shall not detain, or cause to be detained,  
7 a United States citizen unless the United States first en-  
8 sures that the citizen receives—

9 (1) reasonably adequate information informing  
10 the citizen of the reasons for the detention;

11 (2) reasonable access to counsel; and

12 (3) reasonable opportunity and assistance to  
13 regularly communicate with family members.

14 (b) DEFINITIONS.—In this section:

15 (1) The term “during time of war” means in a  
16 period during which United States Armed Forces  
17 are engaged in armed conflict against an enemy of  
18 the people of the United States.

19 (2) The term “protective treaty or international  
20 agreement” means, with respect to a country, a trea-  
21 ty or agreement entered into between the United  
22 States and the government of that country that de-  
23 fines the duties, obligations, process, and procedures  
24 necessary and adequate to afford a United States  
25 citizen taken into custody, or otherwise detained, in

1       that other country, the protections specified in para-  
2       graphs (1) through (3) of subsection (a).

3           (3) The term “agent of the United States”  
4       means an officer or employee (whether civilian or  
5       military) of the United States or of a contractor or  
6       subcontractor (at any tier) of the United States.

7       (c) CONSEQUENCES OF VIOLATION.—A person who  
8       violates this section shall be fined under title 18, United  
9       States Code, imprisoned not more than 2 years, or both.

10       (d) CONSTRUCTION WITH OTHER LAWS.—This sec-  
11      tion does not apply when—

12           (1) the citizen’s rights, when so detained, are  
13       clearly articulated by other Federal law (such as  
14       chapter 47 of title 10, United States Code (the Uni-  
15       form Code of Military Justice)) or by one or more  
16       treaties or international agreements; and

17           (2) the United States ensures that the citizen  
18       receives those rights.

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